

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Crl. Misc. No. 50482 of 2008 and
Crl. Appeal No. 1521-SB of 2007
Date of Decision: 5.12.2008**

Sandeep Sahni.

.. Appellant

Vs.

State of Punjab.

.. Respondent.

CORAM: HON'BLE MR. JUSTICE ARVIND KUMAR,

**Present:- Ms. G.K. Mann, Advocate
for the appellant.**

**Mr. Ashish Kaushik, AAG Haryana.

ARVIND KUMAR, J.

Crl. Misc. No.50482 of 2008 is allowed and compromise and affidavit of complainant are taken on record.

The appellant was tried by the then learned Sessions Judge, Amritsar for the offence under Section 302 IPC with the allegations that on 15.4.2005 he committed murder of his wife Rinku Sahni. On conclusion of trial, the trial court held appellant guilty under Section 306 and 323 IPC and sentenced him to undergo rigorous imprisonment for five years with a fine of Rs.2000/- under the first head while for the latter one, he was awarded punishment for a period of six months. In default of payment of fine, further imprisonment for six months was awarded.

Although the appellant filed the instant appeal and laid challenge to the judgment of his conviction and sentence on various grounds, but before the appeal could be heard, the appellant has placed on record the compromise (Annexure A-1) along with affidavit (Annexure A-2) of complainant Swaran Chawla, the mother of deceased containing the factum of compromise entered between the parties. Even the learned counsel for the appellant has not touched the merits of the case and has

confined her argument to the extent of quantum of sentence and has prayed for lenient view towards the appellant in view of the settlement arrived at between the parties.

In the case of **Mrs. Shakuntala Sawhney v. Mrs. Kaushalya and others 1980(1) SCC 63**, the Hon'ble Apex Court while summing up the essence of compromise has observed that “ The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

Even the Larger Bench of this Court in the case of **Kulvinder Singh & Ors. Vs. State of Punjab & Anr. 2007(3) RCR (Criminal) 1052**, while discussing the scope of quashing of prosecution on the basis of compromise, by this Court in exercise of powers under Section 482 Cr.P.C., even in non-compoundable offence(s) has held that the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice. However, in the case of **Hasi Mohan Barman & Anr. Vs. State of Assam & Anr. 2008(1) RCR (Criminal) 70**, following the ratio laid down in the case of **Surendra Nath Mohanty & Anr. Vs. State of Orissa, 1999(2) All India Criminal Law Reporter, 415**, the Hon'ble Supreme Court has observed that where the parties are compounding the offence, which was not compoundable the findings of acquittal cannot be recorded in favour of the accused but the factum of compromise could be taken into consideration for reducing the sentence.

Learned counsel for the appellant has placed reliance upon a judgment of this Court rendered in the case of **Kishan Singh Vs. State of Punjab, 2004(3) RCR (Criminal) 847**, wherein under similar circumstances, the sentence of the appellant under Section 498-A, 306 IPC was reduced to the period already undergone by him, taking into account the factum of the compromise between the parties.

In the instant case the parties have removed all their ill-will and have purchased peace for each other. This will also help to maintain social order in the society. A settlement, which emerges out from the hearts of the individual will be most lasting as compared to one which will be enforced by penal provision of law. In the case in hand, an attempt has also been

made by the parties to rehabilitate in life, which this Court feels is required to be appreciated. The appellant was released on bail after remaining in for a period of about one year and six months and if at this juncture, the appellant is sent to prison, his prospects of settling in life shall be ruined. There is nothing on the file which is suggestive of the fact that during the period he remained out, he indulged in any activity prejudicial to the Society. Therefore, in view of the settlement having arrived at between both the parties coupled with the legal position, referred to above, the order of conviction of the appellant is upheld. However, the sentence awarded to him, as referred above, is reduced to the one already undergone by him.

With the above modification, the instant appeal stands disposed of.

(ARVIND KUMAR)
JUDGE

December 5,2008
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